

**Graham v. Best Buy Stores, L.P., et al.**

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Case No. 1:06-CV-1532

Defendants.

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June 21, 2007

TIMOTHY L. COLLINS

Graham v. Best Buy Stores, L.P., et al.

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Schuster & Simmons Co., L.P.A., by

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11 On behalf of the Defendants

12 Vorys, Sater, Seymour and Pease, LLP, by

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1           TIMOTHY L. COLLINS, of lawful age, called  
2           for examination, as provided by the Federal  
3           Rules of Civil Procedure, being by me first duly  
4           sworn, as hereinafter certified, deposed and  
5           said as follows:

6                   EXAMINATION OF TIMOTHY L. COLLINS  
7           BY MS. SCHUSTER:

8           Q.   This is the deposition of Timothy  
9           Collins in the case of Graham versus Best Buy.  
10          Mr. Collins, would you state your name, please,  
11          and spell your last name.

12          A.   Timothy Collins, C-O-L-L-I-N-S.

13          Q.   Mr. Collins, what is your date of  
14          birth?

15          A.   February 9th, 1962.

16          Q.   Which makes you?

17          A.   Too old; 35 -- I'm sorry, 45.

18          Q.   Have you ever been deposed before?

19          A.   No.

20          Q.   Have you ever testified?

21          A.   In a grand jury once.

22          Q.   Any other testimony? Any civil case?

23          A.   Yes.

24          Q.   When was that?

25          A.   Three or four years ago on a credit

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1 investigations?

2 A. Whenever a GM asked me to. If they  
3 suspected something in their store, if they were  
4 uncomfortable doing it, they would ask me to  
5 help them.

6 Q. Approximately how often would that  
7 occur?

8 A. Once a month.

9 Q. Oh, really. That often?

10 A. Uh-huh.

11 Q. Did you have more requests to  
12 investigate from some stores than other stores?

13 A. Not that I recall.

14 Q. Did you keep a record of the  
15 investigations you conducted?

16 A. Depending on the investigation.  
17 Typically, that's HR.

18 Q. What do you mean?

19 A. I would give information to the HR  
20 team.

21 Q. But I asked you did you keep a record.  
22 Did you make a record?

23 A. Yes. I said I always made notes  
24 whenever I did an investigation.

25 Q. Did you always give those notes to HR?

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1 Q. Why not go back to Elyria?

2 A. Chapel Hill is only 15 minutes away  
3 from the Macedonia store.

4 Q. Who drove? Did you drive?

5 A. Yes.

6 Q. On the way to Chapel Hill, did you  
7 have any conversation?

8 A. I'm sure we had idle chatter.

9 Q. Did you have any conversation about  
10 the events in issue?

11 A. Yes.

12 Q. Yes, you did?

13 A. Yes.

14 Q. What was that?

15 A. I told him I was adding two and two  
16 together when I watched the videotape, and I  
17 thought it might be Michael based on the fact  
18 that I had met him a couple times, based on the  
19 fact that -- first I backed up and explained to  
20 him here's what I'm looking at from an  
21 investigative standpoint.

22 I have somebody that obviously knows  
23 what the green light means. That tells me --  
24 it's that combined with somebody that opened a  
25 drawer and looked like they had a key. That

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1 tells me it's somebody internal that understands  
2 our system and knows about it and had access to  
3 the key. That tells me it's either a current  
4 employee or former employee, so I looked at  
5 that.

6 Then I looked at the history of stores  
7 that had been till tapped being Canton, Chapel  
8 Hill, Parma, and finally Elyria, the one we have  
9 on video. I said I didn't think Michael had  
10 ever worked at Canton, Chapel Hill, Parma or  
11 Elyria. So I'm putting two and two together  
12 thinking, okay, here in my mind it's a  
13 possibility being Michael because it's somebody  
14 who knows how the register works, knows when  
15 there's a green light, knows how to open the  
16 drawer with the right key, and knows how to find  
17 out which key it is.

18 Q. You said all this to --

19 MR. CAMPBELL: He's still answering.  
20 You've cut him off.

21 MS. SCHUSTER: I understand that you  
22 guys had a conversation out on the porch.

23 MR. CAMPBELL: He is still answering  
24 the question. He can answer the question.

25 MS. SCHUSTER: Yes. I understand you

1 Q. Did they give a description of the  
2 well-dressed African-American male other than he  
3 was African-American and he was well dressed?

4 A. No.

5 Q. How many times did you and Mr. Rankin  
6 watch the video at Chapel Hill?

7 A. I'd say half a dozen approximately.

8 Q. How long were you there?

9 A. Half an hour, 45 minutes.

10 Q. What did you do when you left?

11 A. Took Mr. Rankin back to Macedonia.

12 Then I went back to Elyria. Well, we went back  
13 to Macedonia, and then in the Macedonia store I  
14 asked Mr. Rankin if he had any pictures or  
15 anything of Michael Graham, and he had, I  
16 forget, two or three I took back with me back to  
17 the Elyria store that they had some candid  
18 snapshots of the employees during the grand  
19 opening.

20 Rick Sulenski had mentioned that he  
21 was the closing manager I think the night before  
22 or somebody told me Rick was or something to  
23 that effect. So I took the pictures back, and  
24 Rick was in the store, and so I showed Rick the  
25 pictures of Michael Graham and asked him if this

1 Q. How did you know that?

2 A. I don't remember how I knew that. I  
3 don't remember.

4 Q. Pardon?

5 A. I said I don't remember.

6 Q. Well, let's go back. When you went to  
7 the Elyria store on the morning of May 10th, you  
8 watched the video, you took the video, and you  
9 went to Mr. Rankin's store; correct?

10 A. Correct.

11 Q. I haven't skipped anything; have I?  
12 Well, except that you went out into the store to  
13 look at the area of the cash register. But  
14 those were your activities at that time; am I  
15 correct?

16 A. Correct. I just don't remember how I  
17 found out or when I found out that Rick had  
18 worked the day before or the evening before.

19 Q. When you were in Macedonia to show the  
20 video to Mr. Rankin, did you speak to anyone  
21 else in Macedonia?

22 A. No.

23 Q. Did you make any phone calls  
24 concerning this matter?

25 A. Yes.



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1 Q. At that point you had with you the  
2 tape and you also had three photographs; am I  
3 right?

4 A. Two or three. I don't remember  
5 exactly.

6 Q. You should mark these 7A, B, and C.

7 - - - - -

8 (Thereupon, Plaintiff's Deposition  
9 Exhibits 7A, 7B and 7C were marked for purposes  
10 of identification.)

11 - - - - -

12 Q. I'm going to show you now what have  
13 been marked as Collins Exhibits 7A, B, and C.  
14 Are Exhibits 7A, B, and C the three photos which  
15 you obtained at the Macedonia store of Michael  
16 Graham?

17 A. Yes.

18 Q. By the way, when you were at the  
19 Macedonia store, you asked Marc Rankin for the  
20 photos or for photos, if he had any photos, of  
21 Michael Graham; am I right?

22 A. Correct.

23 Q. Did you go with Mr. Rankin to wherever  
24 he went to obtain the photos?

25 A. Yes.

1 Q. Whatever size they were, when  
2 Mr. Rankin gave them to you, they were that size  
3 when you gave them to the Elyria PD; correct?

4 A. Correct.

5 Q. When Mr. Sulenski came into the  
6 security office at Elyria, what did you say to  
7 him?

8 A. I don't remember the exact verbatim  
9 words, but I had the three pictures, and I said  
10 do you recognize this as the individual you saw  
11 in the store last evening.

12 Q. Did you have any conversation with him  
13 about whether in fact he did see an individual  
14 in the store last evening?

15 A. Yes. I asked him if this was the  
16 individual he saw in the store last evening.

17 Q. And he didn't say I didn't see anybody  
18 in the store last evening?

19 A. No. I don't know which picture I  
20 pointed to, but he said, yes, I think I saw this  
21 guy in the store last night.

22 Q. So he pointed to one of the pictures.  
23 Did you record which one he pointed to?

24 A. Not that I remember, no.

25 Q. He said I think I saw this guy in the

1 think that's the guy I was talking to last  
2 night? I think that's the guy?

3 A. I don't remember his exact words. I  
4 remember he responded to me affirmatively that  
5 that was the gentleman he saw or assisted last  
6 night, the evening before.

7 Q. Did he say I think it is, or did he  
8 say I'm positive it is?

9 A. I don't recall.

10 Q. If you made notes, you would have  
11 given them to the Elyria PD; am I correct?

12 A. Had I made a note about that, I would  
13 have given that to them as well.

14 Q. I'm going to show you now what will be  
15 marked as Exhibit 8.

16 - - - - -

17 (Thereupon, Plaintiff's Deposition  
18 Exhibit 8 was marked for purposes  
19 of identification.)

20 - - - - -

21 Q. Exhibit 8 appears to be some sort of  
22 a cash register tape; am I correct?

23 A. Yes.

24 Q. Is it a particular cash register tape?

25 A. Yes.

1 A. Why go to setup screen on 4-22?

2 Q. 12?

3 A. Why license plates wrinkled and edges  
4 coming up?

5 Q. And 13?

6 A. This is a question, these or some of  
7 these, why license plate wrinkled and edges  
8 coming up, that's when I got to -- that was  
9 added after the fact before I interviewed  
10 Michael Graham but after I left my office.  
11 Because when I got to the store, about halfway  
12 down is where this occurred. About half, the  
13 first half, occurred in my office. The second  
14 half occurred after I got to the store.

15 Q. Down to where?

16 A. Where it says 4-14 Drew new CP, I  
17 determined that once I got into the store and I  
18 was able to look up the license plates. At the  
19 bottom where it says why license plate wrinkled  
20 and edges coming up, I wrote that after I got to  
21 the store because I had physically seen the  
22 license plates.

23 Q. Why was that significant?

24 A. Because he switched license plates on  
25 the two.

## CERTIFICATE

1

2

3

State of Ohio, )

4

) SS:

5

County of Cuyahoga. )

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9

I, Cynthia A. Sullivan, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named TIMOTHY L. COLLINS was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

14

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

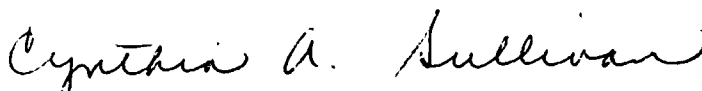
19

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 21st day of July 2007.

21

22

23



24

Cynthia A. Sullivan, Notary Public  
Within and for the State of Ohio

25

My commission expires October 17, 2011.